



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590



REPLY TO THE ATTENTION OF:

July 28, 2003

Mr. H. Roderic Heard
Wildman, Harrold, Allen & Dixon
225 West Wacker Drive
Suite 3000
Chicago, Illinois 60606-1229

Re: Lockformer Site
Lisle, Illinois

Dear Mr. Heard:

Certain representations that you made in closing arguments of the De Vane, et al. v. Lockformer Company, et al. trial have come to the attention of the United States Environmental Protection Agency (U.S. EPA). In particular, you stated that the U.S. EPA's decision not to name Honeywell as a respondent in the Agency's October 4, 2001, administrative order for the Lockformer site meant that "Honeywell has been exonerated by the U.S. EPA."

On behalf of the U.S. EPA, I would like to make the record clear that Honeywell has in no way been exonerated. The U.S. EPA issued a notice of potential liability for the Lockformer site to several parties – including Honeywell – on June 26, 2001. The U.S. EPA has not withdrawn that notice with respect to Honeywell or any other party named.

In response to the June 26, 2001 notice letter, Lockformer entered into negotiations with the U.S. EPA for cleanup at the site. During those negotiations, Lockformer expressed its willingness to perform the required work and informed the U.S. EPA of its settlement agreement with Honeywell. In light of that settlement agreement, Lockformer asked the U.S. EPA not to issue an order to Honeywell because the work required by the order would be Lockformer's responsibility anyway.

Because of Lockformer's request, the U.S. EPA exercised its enforcement discretion not to name Honeywell on the cleanup order it issued to Lockformer on October 4, 2001. The U.S. EPA, however, continues to believe that Honeywell is a potentially responsible party for the Lockformer site. Moreover, Section 107(e)(1) of the Superfund statute (42 U.S.C. § 9607(e)(1)) is clear that private settlement agreements do not alter liability to the U.S. EPA under the law.

I hope this clarification will make sure you avoid further misstatements of the U.S. EPA's position concerning Honeywell's involvement at the Lockformer site. I request that you correct the record in the DeVane case and avoid all further misstatements in the future. Please feel free to contact me if you have any questions regarding this matter.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'Thomas J. Krueger', written in a cursive style.

Thomas J. Krueger
Associate Regional Counsel